

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AARON COPPELSON DARIUSH FAKHERI and
NIGHTENGALE NY1, LLC,

Plaintiffs,

-v-

RYAN SERHANT, NEST SEEKERS and
INTERNATIONAL LLC,

Defendants.

Case No.: 19-cv-08481 (LJL)

DECLARATION OF MARK W. LERNER

I, **MARK W. LERNER**, a person over the age of majority, pursuant to 28 U.S.C. § 1746, declare:

1. I am a partner of the law firm of Kasowitz Benson Torres LLP, attorneys for Defendant Ryan Serhant (“Serhant”). I am fully familiar with the pleadings in this matter and, unless otherwise indicated, I have personal knowledge of the facts herein.

2. I submit this declaration in support of Serhant’s motion, pursuant to Rule 12(b)(6) and Rule 9(b) of the Federal Rules of Civil Procedure and New York Business Corporation Law Section 1312(a), to dismiss plaintiffs Aaron Coppelson, Dariush Fakheri and Nightengale NY1, LLC’s First Amended Complaint, dated July 28, 2020 (Dkt. No. 38) (the “Amended Complaint”) with prejudice.

3. Attached as Exhibit A is a true and correct copy of the Amended Complaint (Dkt. No. 38).

4. Attached as Exhibit B is a true and correct copy of the Complaint originally filed in the New York State Supreme Court by plaintiffs Aaron Coppelson and Nightengale NY1, LLC on July 15, 2019, and which was duly removed to this Court. (Dkt. Nos. 2, 32).

5. Attached as Exhibit C is a true and correct copy of New York Department of State, Division of Corporations online search results, as accessed on August 3, 2020, showing no corporate entity authorized to do business in New York beginning with “Nightengale NY1.”

I declare under penalty of perjury that the above is true and correct. Executed this 24 day of August 2020 in New York, New York.

/s/ Mark W. Lerner

MARK W. LERNER

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2020, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system.

/s/ Mark W. Lerner

Mark W. Lerner